



August 25, 2014

By CM/ECF & Fax

The Honorable Frank Maas
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 740
New York, New York 10007

Re: *Houser et al. v. Pritzker*, No. 10 Civ. 3105 (FM)

Dear Judge Maas:

Plaintiffs write in anticipation of tomorrow's telephonic conference with the Court to provide an update on the status of the parties' ongoing negotiations of a proposed scheduling order and to request the Court's assistance in moving this case to resolution by setting a reasonable and firm trial date in July 2015.

The Court ordered the parties to submit a proposed post-class certification scheduling order by July 18, 2014. ECF No. 267. Despite good faith efforts to meet and confer, the parties failed to come to an agreement and submitted separate proposed orders. ECF Nos. 272-1, 273-1. Plaintiffs objected to Defendant's proposal because it built in further unnecessary and extraordinary delay, obstructing the eventual resolution of this matter. This remains Plaintiffs' concern and while the parties continue to negotiate certain interim deadlines, particularly in light of Defendant's recent admission that it failed to produce certain discovery, Plaintiffs believe that setting a firm trial date is necessary to move this case forward.

Plaintiffs requested and the Court granted a conference for July 30, 2014 to discuss the difference between the parties' proposed scheduling orders. The July 30th conference was adjourned after the Defendant wrote the Court on July 29, 2014, explaining that it made a mistake in collecting and producing selection records that it used in support of its motion to dismiss the claims of the named plaintiffs and upon which the Court relied in dismissing the claims of three named plaintiffs and the claims of the Latino class. ECF No. 278. Defendant promised a full and prompt review of the mistake, and the Court ordered an adjournment of the conference.

On August 6, 2014, Defendant informed the Court that Named Plaintiff Anthony Gonzalez "now appears as 'eligible' on at least one selection certificate" and produced a declaration from Richard Liquorie along with the previously undisclosed selection records. ECF Nos. 280-82. On August 25, 2014, Defendant submitted a letter attempting to explain its failure to disclose complete selection records. ECF No. 286. Plaintiffs continue to be concerned about

the completeness of the selection records – which is only reinforced by the government’s submission from earlier today indicating for the first time that “there may be other corrections that Census may need to make to the Lewis-Willis and Liquorie declarations it filed in connection with the selection certificates.” ECF No. 286 at 2.

Plaintiffs intend to file a motion to modify the Court’s July 1, 2014 Order to reinstate Mr. Gonzalez as a named Plaintiff, to add additional Latino class representatives and to modify the certified class definition to include the claims of the Latino class. We hope to make this motion on consent and to minimize the prejudice and disruption caused by Defendant’s failure to produce complete records.¹ Plaintiffs have also noticed and Defendant has consented to the deposition of Richard Liquorie and we have agreed to meet and confer on any additional discovery related to the selection records. The parties should be able to move expeditiously on these discrete issues which should not be grounds for adding additional months to the scheduling order.

Plaintiffs have engaged in several lengthy meet and confers with Defendant on these issues and the proposed scheduling order in general, and while we have made some progress we believe with some additional time the parties may be able to further narrow their differences. Plaintiffs respectfully request that the Court set a July 2015 trial date to provide a guidepost for the parties’ negotiations on the interim deadlines and order the parties to submit their proposed scheduling order by September 3, 2014.

Respectfully submitted,

/s/ Ossai Miazad

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¹ Defendant has agreed to the reinstatement of Mr. Gonzalez as a named plaintiff and the addition of one additional Latino named plaintiff. The parties continue to meet and confer on Plaintiffs’ proposal to add a second additional Latino class representative and on the language of a proposed modified class certification order.